



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R04-OAR-2009-0786; FRL-9719-6]

Approval and Promulgation of Implementation Plans; Tennessee; Regional Haze State Implementation Plan; Best Available Retrofit Technology for Eastman Chemical Company

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a revision to the State Implementation Plan (SIP) submitted by the State of Tennessee, through the Tennessee Department Environment and Conservation (TDEC), on May 14, 2012, related to the Best Available Retrofit Technology (BART) requirements for the Eastman Chemical Company (Eastman). Specifically, the May 14, 2012, SIP revision modifies the compliance date for the Eastman BART determination included in Tennessee's April 4, 2008, SIP revision and provides a BART alternative determination option for Eastman. Together, Tennessee's April 4, 2008, and May 14, 2012, SIP revisions address the requirements of the Clean Air Act (CAA or Act) and EPA's rules that require states to prevent any future and remedy any existing anthropogenic impairment of visibility in mandatory Class I areas (national parks and wilderness areas) caused by emissions of air pollutants from numerous sources located over a wide geographic area (also referred to as the "regional haze program"). EPA is proposing to approve Tennessee's May 14, 2012, SIP revision because it is consistent with the CAA and EPA's regulations on regional haze BART determinations and BART alternative determinations.

DATES: Comments must be received on or before [Insert date 30 days from the publication of this notice].

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R04-OAR-2009-0786, by one of the following methods:

1. www.regulations.gov: Follow the on-line instructions for submitting comments.
2. *Email:* R4-RDS@epa.gov.
3. *Fax:* 404–562–9019.
4. *Mail:* EPA-R04-OAR-2009-0786, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW, Atlanta, Georgia 30303–8960.
5. *Hand Delivery or Courier:* Lynorae Benjamin, Chief, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW, Atlanta, Georgia 30303–8960. Such deliveries are only accepted during the Regional Office’s normal hours of operation. The Regional Office’s official hours of business are Monday through Friday, 8:30 to 4:30, excluding federal holidays.

Instructions: Direct your comments to Docket ID No. “EPA-R04-OAR-2009-0786.” EPA’s policy is that all comments received will be included in the public docket without change and may be made available online at www.regulations.gov, including any personal information

provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

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Docket: All documents in the electronic docket are listed in the www.regulations.gov index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in www.regulations.gov or in hard copy at the Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth

Street SW, Atlanta, Georgia 30303–8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office’s official hours of business are Monday through Friday, 8:30 to 4:30, excluding federal holidays.

FOR FURTHER INFORMATION CONTACT: Michele Notarianni, Regulatory

Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW, Atlanta, Georgia 30303–8960. Michele Notarianni can be reached at telephone number (404) 562–9031 and by electronic mail at notarianni.michele@epa.gov.

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I. What is the Background for This Proposed Action?

On April 4, 2008, TDEC submitted a revision to Tennessee’s SIP to address regional haze in mandatory federal Class I areas within the State and in mandatory federal Class I areas outside the State which may be affected by emissions from within the State. On June 9, 2011,¹

¹ On July 26, 2011, EPA reopened the comment period for EPA’s proposed action related to Tennessee’s April 4,

EPA published an action proposing a limited approval and a limited disapproval of Tennessee's April 4, 2008, SIP revision (including the BART determination for Eastman) to address regional haze during the first implementation period.² *See* 76 FR 33662. Detailed background information and EPA's rationale for the proposed action is provided in EPA's June 9, 2011, proposed rulemaking. *See* 76 FR 33662.

After publication of EPA's June 2011 proposed action on Tennessee's regional haze SIP revision, the State and Eastman entered into discussions regarding a BART alternative determination that would give Eastman the option to comply with the regional haze BART requirements by converting its B-253 Powerhouse to natural gas in lieu of continuing to use coal and retrofitting its facility pursuant to the BART determination for sulfur dioxide (SO₂) emissions (hereafter referred to as the "Eastman BART alternative determination").

On April 24, 2012, EPA took final action on Tennessee's April 4, 2008, regional haze SIP revision, with the exception of the BART determination for Eastman. *See* 77 FR 24392. As noted in that action, EPA took no action on the Eastman BART determination provided in the April 4, 2008, SIP revision (hereafter referred to as the "original Eastman BART determination") at that time since EPA expected Tennessee to submit a revised SIP addressing a BART alternative determination for Eastman. EPA's proposed action for the original Eastman BART determination remains in place after EPA's April 24, 2012, action on the remainder of Tennessee's regional haze SIP revision.

2008, SIP revision. *See* 76 FR 44534.

² EPA proposed a limited approval of Tennessee's April 4, 2008, SIP revision to implement the regional haze requirements for Tennessee on the basis that the revision, as a whole, strengthens the Tennessee SIP. Further, EPA proposed a limited disapproval of the same SIP revision because of the deficiencies in the State's regional haze SIP revision arising from the remand of the Clean Air Interstate Rule (CAIR) to EPA by the U.S. Court of Appeals for the District of Columbia Circuit (D.C. Circuit). Subsequently, in a June 7, 2012, action, EPA finalized a Federal Implementation Plan for Tennessee to address the deficiencies that resulted from the State's reliance on CAIR for their regional haze SIP.

On May 14, 2012, TDEC submitted a supplement to its April 2008 Tennessee regional haze plan to EPA with a revised BART determination for Eastman. In summary, the May 14, 2012, SIP revision for Eastman: 1) modifies the final compliance date to April 30, 2017, for the original Eastman BART determination; and 2) establishes a BART alternative option for Eastman to convert its B-253 Powerhouse (Boilers 25-29) to burn natural gas. The SIP revision and Eastman's CAA title V operating permit stipulate that if Eastman elects to implement the BART alternative instead of the original BART determination, Eastman must begin construction on the BART alternative prior to April 30, 2017, and complete construction no later than the earlier of: December 31, 2018; the end of the period of the first long-term strategy (LTS) for regional haze as determined by EPA; or the compliance deadline for the one-hour SO₂ national ambient air quality standard (NAAQS). Tennessee's May 14, 2012, SIP revision also stipulates that if Eastman elects to implement the original BART determination instead of the BART alternative, it must comply with the BART requirements by April 30, 2017. The Tennessee Air Pollution Control Board approved this SIP revision and associated operating permit as Board Order 12-008 on May 9, 2012.³

II. What are the Requirements for a BART Alternative Determination?

Under 40 CFR 51.308(e)(2), states may choose to meet the BART requirements with a BART alternative. Section 51.308(e)(2) specifies the requirements that a state must meet to show that the alternative measure or alternative program achieves greater reasonable progress

³ Board Order 12-008 approves the withdrawal of operating permit 061873H (BART permit for Eastman issued March 31, 2008). The Order also approves the submittal of the Alternative BART Determination for Eastman Chemical Company – Tennessee Operations and operating permit 066116H (BART permit for Eastman issued May 9, 2012) to EPA for adoption into Tennessee's Regional Haze SIP. Tennessee provided this updated Board Order in a SIP revision on May 14, 2012. While the May 14, 2012, SIP revision contained the updated Board Order, EPA notes that Tennessee did not withdraw the original BART determination and technical analysis related to the Eastman facility that was provided in Tennessee's April 4, 2008, SIP revision.

than would be achieved through the installation and operation of BART. For a BART alternative, the state must submit an implementation plan containing, among other things, the following plan elements and include documentation for all required analyses:

- (A) A list of all BART-eligible sources within the state.
- (B) A list of all BART-eligible sources and all BART source categories covered by the alternative program. The state is not required to include every BART source category or every BART-eligible source within a BART source category in an alternative program.
- (C) An analysis of the best system of continuous emissions control technology available and associated emissions reductions achievable for each source within the state subject to BART and covered by the alternative program. This analysis must be conducted by making a determination of BART for each source subject to BART and covered by the alternative program.
- (D) An analysis of the projected emissions reductions achievable through the alternative measure.
- (E) A determination that the alternative measure achieves greater reasonable progress than would be achieved through the installation and operation of BART at the covered sources.
- (F) A requirement that all necessary emissions reductions take place during the period of the first long-term strategy for regional haze. To meet this requirement, the State must provide a detailed description of the alternative measure, including schedules for implementation, the emission reductions required by the program, all necessary administrative and technical procedures for implementing the program, rules for accounting and monitoring emissions, and procedures for enforcement.

- (G) A demonstration that the emissions reductions resulting from the alternative measure will be surplus to those reductions resulting from measures adopted to meet requirements of the CAA as of the baseline date of the SIP.

III. What is EPA's Analysis of Tennessee's May 14, 2012, SIP Revision?

As previously mentioned, TDEC's May 14, 2012, SIP revision: 1) modifies the final compliance date for the original Eastman BART determination; and 2) establishes a BART alternative option for Eastman to convert its B-253 Powerhouse (Boilers 25-29) to burn natural gas. Specifically, the SIP revision and the associated operating permit (No. 066116H) create two options for Eastman to reduce its visibility impairing pollutants from the B-253 Powerhouse and satisfy the BART requirements in 40 CFR 51.308(e). Eastman may install, operate, and maintain BART no later than April 30, 2017 (Option 1), or implement the BART alternative option to fuel switch its B-253 Powerhouse (Boilers 25-29) by the earlier of the following: December 31, 2018; the end of the period of the first LTS for regional haze as determined by EPA; or the compliance deadline for the one-hour SO₂ NAAQS (Option 2).

A. Modified Compliance Date for the Eastman BART Determination

The May 14, 2012, SIP revision requires Eastman to install, operate, and maintain BART no later than April 30, 2017, should Eastman decide not to pursue the BART alternative option (Option 1). This compliance date supplements the original Eastman BART determination and technical analysis provided in the State's April 4, 2008, SIP revision. EPA previously proposed approval of the original Eastman BART determination in its June 9, 2011, proposal on Tennessee's regional haze SIP. The comment period on that action closed August 10, 2011. As such, EPA is not reopening comment on the original Eastman BART determination. In today's

rulemaking, EPA is taking comment only on the proposed approval of the April 30, 2017, compliance date for the original Eastman BART determination.

EPA proposes to find that the change in Tennessee's May 14, 2012, SIP revision to set a compliance date of April 30, 2017, for the original BART determination (as included in condition 1 of the May 9, 2012, permit for Eastman – number 066116H) is consistent with the CAA as well as EPA's regulations and guidance for BART determinations. Had EPA finalized its proposed action regarding the original Eastman BART determination on April 24, 2012, when the Agency took final action on the remainder of Tennessee's April 4, 2008, SIP revision, the compliance date for the original BART determination would have been May 24, 2017. Therefore, this proposed compliance date accelerates the implementation of BART at Eastman, should Eastman decide not to implement the BART alternative option evaluated below.

B. BART Alternative Option

The May 14, 2012, SIP revision also provides Eastman with the option to implement a BART alternative, in lieu of the original BART, that requires repowering the B-253 Powerhouse to natural gas by the earlier of the following: December 31, 2018; the end of the period of the first LTS for regional haze as determined by EPA; or the compliance deadline for the one-hour SO₂ NAAQS (Option 2). A December 31, 2018, date for the end of the period of the first LTS is consistent with the requirement to evaluate visibility over calendar year periods and the requirement for each state to submit an initial regional haze SIP that covers the period from submittal through 2018.⁴

⁴ 40 CFR 51.308(f). *See also* 64 FR 35713, 35732-33, 35746 (July 1, 1999) (providing examples that include uniform rate of progress projections for the entire year of 2018).

The BART alternative option is subject to the provisions of 40 CFR 51.308(e)(2), as discussed in Section II of this proposed rulemaking, and is evaluated under these provisions in the following subsections.

1. A list of all BART-eligible sources within the State.

Tennessee's May, 14, 2012, SIP revision identified the following BART-eligible sources within Tennessee:

- 1) Aluminum Company of America (Alcoa) - South Plant;
- 2) DuPont White Pigment and Mineral Products (Humphreys County);
- 3) Eastman Chemical Company - Tennessee Operations;
- 4) E. I. DuPont de Nemours and Company, Inc. (Old Hickory);
- 5) E. I. DuPont de Nemours and Company, Inc. (Shelby County);
- 6) Holston Army Ammunition Plant;
- 7) Inter-trade Holdings, Inc.;
- 8) Liberty Fibers Corporation;
- 9) Lucite International;
- 10) Owens Corning;
- 11) Packaging Corporation of America;
- 12) PCS Nitrogen;
- 13) Tennessee Valley Authority (WA) - Bull Run Fossil Plant;
- 14) Tennessee Valley Authority - Cumberland Fossil Plant;
- 15) Zinifex; and
- 16) Weyerhaeuser Corporation (now Domtar Paper Company) - Sullivan County.

This list includes all BART-eligible sources in Tennessee, as determined by EPA in its

April 24, 2012, final action on Tennessee's April 4, 2008, regional haze SIP.

2. A list of all BART-eligible sources and all BART source categories covered by the alternative program.

The BART alternative option proposed in this action only pertains to the five boilers at Eastman's B-253 Powerhouse. It does not establish a trading program within the meaning of the federal BART regulations or include any other BART-eligible facilities.

3. An analysis of the best system of continuous emissions control technology available and associated emissions reductions achievable for each source within the state subject to BART and covered by the alternative program. This analysis must be conducted by making a determination of BART for each source subject to BART and covered by the alternative program.

In its April 4, 2008, regional haze SIP revision, Tennessee completed an analysis of the best system of continuous emissions control technology available and associated emissions reductions achievable for Eastman and included a BART determination requiring the boilers in the B-253 Powerhouse to either reduce uncontrolled SO₂ emissions by 92 percent or meet an emissions limit of 0.2 pounds per million British thermal units (lbs/MMBtu) heat input. EPA proposed approval of Tennessee's BART determination for the B-253 Powerhouse in its June 9, 2011, action on Tennessee's April 4, 2008, regional haze SIP revision. On April 24, 2012, EPA took final action for Tennessee's April 4, 2008, regional haze SIP revision, with the exception of the BART determination for Eastman. *See* 77 FR 24392. EPA's proposed action to approve the original Eastman BART remains in place after EPA's April 24, 2012, action on the remainder of Tennessee's regional haze SIP revision.

4. An analysis of the projected emissions reductions achievable through the alternative measure.

Under the proposed BART alternative option for Eastman to convert its B-253 Powerhouse (Boilers 25-29) to burn natural gas (Option 2), the SO₂ emissions rate would be 0.0006 lbs/MMBtu heat input based on the allowable sulfur in pipeline natural gas. This limit is an additional 99.7 percent reduction from the compliance limit of 0.2 lbs/MMBtu heat input for the BART determination (Option 1). In addition, nitrogen oxide emissions are expected to be reduced 50 percent from the existing baseline by the conversion to natural gas. No NO_x reductions are expected from the original Eastman BART determination.

5. A determination that the alternative measure achieves greater reasonable progress than would be achieved through the installation and operation of BART at the covered sources.

If there is no difference in the geographic distribution of BART-eligible source emissions between BART and the BART alternative, the BART alternative measure may be deemed to achieve greater reasonable progress if it results in greater emissions reductions than BART (i.e., dispersion modeling is not required to evaluate the differences in visibility between BART and the BART alternative). 40 CFR 51.308(e)(3). Since the BART alternative measure for the Eastman facility would result in a lower emission rate than BART and since there is no difference in the geographic distribution of emissions between BART and the BART alternative, EPA proposes to find that the BART alternative measure results in greater reasonable progress

than BART.

The compliance date for BART (Option 1) is April 30, 2017, and the final compliance date for the BART alternative (Option 2) is the end of the first regional haze implementation period in accordance with EPA's regulations. If Eastman chooses to adopt the BART alternative, phased implementation of the conversion of natural gas is expected throughout the first regional haze implementation period with lower emissions rates as each unit is converted. Furthermore, the lower emissions rates from repowering with natural gas will continue to extend into the future, providing substantially greater reasonable progress than BART. EPA therefore proposes to agree with Tennessee's determination that the BART alternative for the Eastman B-253 Powerhouse will result in "greater reasonable progress" than BART within the meaning of the federal regional haze rules.

6. **A requirement that all necessary emissions reductions take place during the period of the first LTS for regional haze. To meet this requirement, the state must provide a detailed description of the alternative measure, including schedules for implementation, the emissions reductions required by the program, all necessary administrative and technical procedures for implementing the program, rules for accounting and monitoring emissions, and procedures for enforcement.**

Tennessee's May 14, 2012, SIP revision and associated operating permit require that Eastman comply with the BART alternative (should Eastman chose Option 2) no later than December 31, 2018, thereby satisfying the requirement that a source implement a BART alternative during the period of the first LTS. The operating permit also details the procedures for accounting and monitoring the emissions under the BART alternative. EPA previously approved Division Rule 1200-03-9-.02(6) into the Tennessee SIP which requires all permittees to comply with the conditions of their operating permit. Violation of the permit condition is, by

definition, a violation of Division Rule 1200-03-9-.02(6) and grounds for enforcement action.

As previously discussed, Tennessee provided a detailed description of the BART alternative and the expected emissions reductions.

7. A demonstration that the emissions reductions resulting from the alternative measure will be surplus to those reductions resulting from measures adopted to meet requirements of the CAA as of the baseline date of the SIP.

Implementation of the Eastman BART alternative would result in surplus emissions reductions since the additional emissions reductions beyond BART are not required to meet any other provision of the CAA or any other TDEC requirements as of the date that the Tennessee Air Pollution Control Board adopted Board Order 12-008.

EPA proposes to find that the change in Tennessee's May 14, 2012, SIP revision to establish a BART alternative option for Eastman to convert its B-253 Powerhouse (Boilers 25-29) to burn natural gas is consistent with the CAA as well as EPA's regulations and guidance for BART alternative determinations.

IV. Proposed Action

EPA is proposing to approve a revision to the Tennessee SIP submitted by the State of Tennessee on May 14, 2012, related to the BART requirements for Eastman, which supplements the April 4, 2008, revision. Specifically, EPA is proposing to approve the BART alternative determination option for Eastman which would allow for the conversion of Eastman's B-253 Powerhouse (Boilers 25-29) to burn natural gas. As a supplement to EPA's existing proposed action to approve the original Eastman BART determination, EPA is also now proposing to approve a compliance end date of April 17, 2018 for the original BART determination, should Eastman elect not to implement the BART alternative determination. EPA has preliminarily

concluded that the Eastman BART alternative determination and proposed change to the compliance date for the original Eastman BART determination meet the applicable regional haze requirements as set forth in sections 169A and 169B of the CAA and in 40 CFR 51.308(e)(2) as described previously in this action.

V. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations. *See* 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this proposed action merely approves state law as meeting federal requirements and does not impose additional requirements beyond those imposed by State law. For that reason, this proposed action:

- is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this proposed rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the State, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: August 9, 2012

A. Stanley Meiburg
Acting Regional Administrator,
Region 4.

[FR Doc. 2012-21040 Filed 08/24/2012 at 8:45 am; Publication Date: 08/27/2012]